
BOARD OF RESPIRATORY CARE PRACTITIONERS RULES

AS OF JUNE 30, 2021

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DEPARTMENT OF LABOR AND INDUSTRY

CHAPTER 213

BOARD OF RESPIRATORY CARE PRACTITIONERS

Subchapter 1

Organizational Rule

Rule 24.213.101 Board Organization

Subchapter 2

Procedural Rules

Rule 24.213.201 Procedural Rules

24.213.202 Public Participation Rules

Subchapter 3

Definitions

Rule 24.213.301 Definitions

Subchapter 4

General Provisions

Rule 24.213.401 Fee Schedule

24.213.402 Application for Licensure

24.213.403 Abatement of Renewal Fees

Rule 24.213.404 reserved

24.213.405 Temporary Permit (REPEALED)

24.213.406 Nonroutine Applications

24.213.407 Applicants With Criminal Convictions

DEPARTMENT OF LABOR AND INDUSTRY

- Rule 24.213.408 Examination
Rule 24.213.409 reserved
- 24.213.410 Military Training or Experience
Rule 24.213.411 reserved
- 24.213.412 Renewals (REPEALED)
Rules 24.213.413 and 24.213.414 reserved
- 24.213.415 Inactive Status
Rules 24.213.416 through 24.213.420 reserved
- 24.213.421 Board Seal (REPEALED)

Subchapter 5

Sedation

- Rule 24.213.501 Institutional Guidelines Concerning Education and Certification - When Required (REPEALED)
- 24.213.502 Training–Conscious Sedation
Rule 24.213.503 reserved
- 24.213.504 Authorization to Perform Formal Pulmonary Function Testing and Informal, Basic Screening Spirometry
Subchapters 6 through 20 reserved

RESPIRATORY CARE PRACTITIONERS

Subchapter 21

Continuing Education

- Rule 24.213.2101 Continuing Education Requirements
Rules 24.213.2102 and 24.213.2103 reserved
- 24.213.2104 Acceptable Continuing Education
Rules 24.213.2105 and 24.213.2106 reserved
- 24.213.2107 Traditional Education by Nonsponsored Organizations --
Category II (REPEALED)
Rules 24.213.2108 through 24.213.2110 reserved
- 24.213.2111 Teaching -- Category III (REPEALED)
Rules 24.213.2112 and 24.213.2113 reserved
- 24.213.2114 Papers, Publications, Journals, Exhibits, Videos,
Independent Study, and College Course Work -- Category
IV (REPEALED)
Rules 24.213.2115 through 24.213.2120 reserved
- 24.213.2121 Waiver of Continuing Education Requirement

Subchapter 22 reserved

Subchapter 23

License Discipline

- Rule 24.213.2301 Unprofessional Conduct

NEXT PAGE IS 24-24509

Sub-Chapter 1

Organizational Rule

24.213.101 BOARD ORGANIZATION (1) The board of respiratory care practitioners (hereinafter "board") hereby adopts and incorporates the organizational rules of the department of labor and industry as listed in chapter 1 of this title. (History: 37-28-104, MCA; IMP, 2-4-201, MCA; NEW, 1992 MAR p. 913, Eff. 5/1/92; TRANS, from Commerce, 2003 MAR p. 1286.)

Sub-Chapter 2

Procedural Rules

24.213.201 PROCEDURAL RULES (1) The board hereby adopts and incorporates the procedural rules of the department of labor and industry as listed in chapter 2 of this title. (History: 37-28-104, MCA; IMP, 2-4-201, MCA; NEW, 1992 MAR p. 913, Eff. 5/1/92; TRANS, from Commerce, 2003 MAR p. 1286.)

24.213.202 PUBLIC PARTICIPATION RULES (1) The board hereby adopts and incorporates the public participation rules of the department of commerce as listed in chapter 2 of this title. (History: 37-28-104, MCA; IMP, 2-4-201, MCA; NEW, 1992 MAR p. 913, Eff. 5/1/92; TRANS, from Commerce, 2003 MAR p. 1286.)

Subchapter 3

Definitions

24.213.301 DEFINITIONS (1) "Clinical supervision" means the availability of a licensed respiratory care practitioner for purposes of immediate communication and consultation.

(2) "Conscious sedation" means the administration of a pharmacological agent by a respiratory care provider as prescribed by a physician.

(3) "Emergency procedures" as that term is used in 37-28-102, MCA, includes, but is not limited to, physician-approved protocols relating to life-sustaining procedures in emergency situations in the absence of the immediate direction of a physician. Emergency respiratory care may also be provided during transportation of a patient and under any circumstances where an epidemic, public disaster, or other emergency necessitates respiratory care.

(4) "Formal pulmonary function testing" includes, but is not limited to:

- (a) diffusion capacity studies; and
- (b) complete lung volumes and flows.

(5) "Informal screening spirometry" includes, but is not limited to:

- (a) peak expiration flow rate;
- (b) screening spirometry forced expiration volume for one second;
- (c) forced vital capacity; and
- (d) simple vital capacity.

(6) "NBRC" means the National Board for Respiratory Care.

(7) "Pulse oximetry," "pulmonary function testing," and "spirometry" mean diagnostic procedures that, pursuant to the orders of a physician, may be performed only by or under clinical supervision of a licensed respiratory care practitioner and/or other licensed health care provider who has met the minimum competency standards. The individual performing pulmonary function testing and spirometry must meet minimum competency standards, as they currently exist, as established by the National Institute for Occupational Safety and Health (NIOSH) or the National Board for Respiratory Care (NBRC) certification examination for entry level respiratory therapist, certification examination for entry level pulmonary function technologist (CPFT) credential, or registry examination for Advanced Pulmonary Function Technologists (RPFT) specific to pulmonary function testing.

(8) For the purposes of 37-28-102(3)(a), MCA, "respiratory care" does not include the delivery, assembly, testing, simulated demonstration of the operation, or demonstration of safety and maintenance of respiratory therapy equipment by home medical equipment (HME) personnel to a client's home, pursuant to the written prescription of a physician. "Respiratory care" does include any instruction to the client regarding clinical use of the equipment, or any monitoring, assessment, or other evaluation of therapeutic effects. (History: Sections (8) and (1) are advisory only, but may be a correct interpretation of the law, 37-28-104, MCA; IMP, 37-28-101, 37-28-102, MCA; NEW, 1992 MAR p. 913, Eff. 5/1/92; AMD, 1994 MAR p. 160, Eff. 1/28/94; AMD, 1994 MAR p. 668, Eff. 4/1/94; AMD, 1997 MAR p. 542, Eff. 3/25/97; AMD, 2000 MAR p. 1039, Eff. 4/28/00; AMD, 2001 MAR p. 1096, Eff. 6/22/01; TRANS, from Commerce, 2003 MAR p. 1286; AMD, 2005 MAR p. 453, Eff. 4/1/05; AMD, 2015 MAR p. 22, Eff. 1/16/15.)

Subchapter 4

General Provisions

24.213.401 FEE SCHEDULE (1) The following fees are adopted:

- | | |
|--------------------------|------|
| (a) Application fee | \$50 |
| (b) License fee | 50 |
| (c) Renewal fee (annual) | 75 |
| (d) Inactive license fee | 50 |

(e) Additional standardized fees are specified in ARM 24.101.403. (History: 37-1-131, 37-1-134, 37-28-104, MCA; IMP, 37-1-134, 37-1-141, 37-28-104, 37-28-202, MCA; NEW, 1992 MAR p. 913, Eff. 5/1/92; AMD, 1997 MAR p. 542, Eff. 3/25/97; AMD, 1998 MAR p. 2276, Eff. 8/28/98; AMD, 2001 MAR p. 1096, Eff. 6/22/01; TRANS, from Commerce, 2003 MAR p. 1286; AMD, 2004 MAR p. 568, Eff. 3/12/04; AMD, 2006 MAR p. 1583, Eff. 7/1/06; AMD, 2007 MAR p. 1447, Eff. 9/21/07.)

24.213.402 APPLICATION FOR LICENSURE (1) An application for a license must be made on a form provided by the department and completed and signed by the applicant.

(2) The application must be accompanied by the appropriate license fees, and contain sufficient evidence that the applicant possesses the qualifications set forth in Title 37, chapter 28, MCA, and rules promulgated thereunder. Pursuant to 37-28-202, MCA, passage of the NBRC examination demonstrates that the applicant has completed the examination requirements for licensure.

(3) The board shall require the applicant to submit the original hard copy or electronic certified documents in support of the application.

(4) The board or department, at the board's discretion, shall review fully completed applications for compliance with board law and rules and shall notify the applicant in writing of the results of the evaluation of the application. The board may request such additional information or clarification of information provided in the application as it deems reasonably necessary. Applicants will be notified of incomplete portions of an application and will be asked to provide the missing information.

(5) The applicant shall correct any deficiencies and submit the missing information to the board. Applications that are not completed within one year from the date of the application shall expire and the applicant will be required to submit an entirely new application to begin the process again.

(6) All requests for reasonable accommodations under the Americans with Disabilities Act of 1990, at 42 USC sections 12101, et seq., must be made on forms provided by the department and submitted with the application.

(7) An applicant who has been away from the practice of the profession of respiratory care for more than three years shall provide evidence of competency. The applicant may demonstrate competency by:

(a) retaking the respective examination(s) for the credential being renewed and achieving a passing score; or

(b) passing an NBRC credentialing examination not previously completed. (History: 37-1-131, 37-28-104, MCA; IMP, 37-1-101, 37-1-104, 37-1-131, 37-1-134, 37-1-141, 37-28-201, 37-28-202, MCA; NEW, 1992 MAR p. 913, Eff. 5/1/92; AMD, 1993 MAR p. 2125, Eff. 9/17/93; AMD, 1997 MAR p. 542, Eff. 3/25/97; TRANS, from Commerce, 2003 MAR p. 1286; AMD, 2005 MAR p. 453, Eff. 4/1/05; AMD, 2006 MAR p. 2660, Eff. 10/27/06; AMD, 2007 MAR p. 1447, Eff. 9/21/07; AMD, 2015 MAR p. 22, Eff. 1/16/15.)

24.213.403 ABATEMENT OF RENEWAL FEES (1) The board adopts and incorporates by reference the fee abatement rule of the Department of Labor and Industry found at ARM 24.101.301. (History: 37-1-131, MCA; IMP, 17-2-302, 17-2-303, 37-1-134, MCA; NEW, 2004 MAR p. 568, Eff. 3/12/04; AMD, 2006 MAR p. 1583, Eff. 7/1/06; AMD, 2019 MAR p. 749, Eff. 6/8/19.)

Rule 24.213.404 reserved

24.213.405 TEMPORARY PERMIT (REPEALED) (History: 37-28-104, MCA; IMP, 37-1-305, 37-28-206, MCA; NEW, 1992 MAR p. 913, Eff. 5/1/92; AMD, 1993 MAR p. 2125, Eff. 9/17/93; AMD, 1997 MAR p. 542, Eff. 3/25/97; TRANS, from Commerce, 2003 MAR p. 1286; AMD, 2005 MAR p. 453, Eff. 4/1/05; REP, 2007 MAR p. 1447, Eff. 9/21/07.)

24.213.406 NONROUTINE APPLICATIONS (1) For the purpose of processing nonroutine applications, the board incorporates the definitions of routine and nonroutine at ARM 24.101.402 by reference.

(2) Nonroutine applications must be reviewed and approved by the board before a license may be issued. (History: 37-1-131, MCA; IMP, 37-1-101, 37-1-131, MCA; NEW, 2021 MAR p. 556, Eff. 5/15/21.)

24.213.407 APPLICANTS WITH CRIMINAL CONVICTIONS (1) The board incorporates ARM 24.101.406 by reference with no modifications. (History: 37-1-131, MCA; IMP, 37-1-101, 37-1-131, MCA; NEW, 2021 MAR p. 556, Eff. 5/15/21.)

24.213.408 EXAMINATION (1) The certification examination for entry-level respiratory therapy practitioners offered by the NBRC shall be the exam prescribed for licensing in this state.

(2) Applicants for original licensure shall provide evidence that they have successfully passed the examination. (History: 37-1-131, 37-28-104, MCA; IMP, 37-1-131, 37-28-202, MCA; NEW, 1992 MAR p. 913, Eff. 5/1/92; AMD, 1997 MAR p. 542, Eff. 3/25/97; TRANS, from Commerce, 2003 MAR p. 1286; AMD, 2005 MAR p. 453, Eff. 4/1/05; AMD, 2006 MAR p. 2660, Eff. 10/27/06; AMD, 2015 MAR p. 22, Eff. 1/16/15.)

Rule 24.213.409 reserved

24.213.410 MILITARY TRAINING OR EXPERIENCE (1) Pursuant to 37-1-145, MCA, the board shall accept relevant military training, service, or education toward the requirements for licensure as a respiratory care practitioner.

(2) Relevant military training, service, or education must be completed by an applicant while a member of either:

- (a) United States Armed Forces;
- (b) United States Reserves;
- (c) state national guard; or
- (d) military reserves.

(3) An applicant must submit satisfactory evidence of receiving military training, service, or education that is equivalent to relevant licensure requirements as a respiratory care practitioner. Satisfactory evidence includes:

- (a) a copy of the applicant's military discharge document (DD 214 or other discharge documentation);
- (b) a document that clearly shows all relevant training, certification, service, or education the applicant received while in the military, including dates of training and completion or graduation; and
- (c) any other documentation as required by the board.

(4) The board shall consider all documentation received to determine whether an applicant's military training, service, or education is equivalent to relevant licensure requirements. (History: 37-1-145, MCA; IMP, 37-1-145, MCA; NEW, 2014 MAR p. 1264, Eff. 6/13/14.)

Rule 24.213.411 reserved

24.213.412 RENEWALS (REPEALED) (History: 37-1-131, 37-28-104, MCA; IMP, 37-1-131, 37-1-141, MCA; NEW, 1992 MAR p. 913, Eff. 5/1/92; AMD, 1993 MAR p. 2125, Eff. 9/17/93; AMD, 1997 MAR p. 542, Eff. 3/25/97; AMD, 2000 MAR p. 1039, Eff. 4/28/00; TRANS, from Commerce, 2003 MAR p. 1286; AMD, 2006 MAR p. 1583, Eff. 7/1/06; AMD, 2007 MAR p. 1447, Eff. 9/21/07; REP, 2015 MAR p. 1201, Eff. 8/14/15.)

Rules 24.213.413 and 24.213.414 reserved

24.213.415 INACTIVE STATUS (1) A licensee who wishes to retain a license, but who will not be practicing respiratory care, may obtain inactive status by indicating this intention on the annual renewal form and paying the appropriate fee. An individual licensed on inactive status may not practice respiratory care during the period in which the licensee remains on inactive status.

(2) An individual licensed on inactive status may convert this license to active status by submission of a request to reactivate and payment of the renewal fee for the year in question. The request to reactivate must contain evidence of practice of respiratory care in another state and completion of continuing education for each year of inactive status, substantially equivalent, in the opinion of the board, to that required under these rules.

(3) An individual whose license has been inactive for more than three years in all jurisdictions must retake the examination required under ARM 24.213.408. (History: 37-1-131, 37-1-319, 37-28-104, MCA; IMP, 37-1-131, 37-1-319, MCA; NEW, 1997 MAR p. 542, Eff. 3/25/97; AMD, 2000 MAR p. 1039, Eff. 4/28/00; TRANS, from Commerce, 2003 MAR p. 1286; AMD, 2007 MAR p. 1447, Eff. 9/21/07; AMD, 2015 MAR p. 22, Eff. 1/16/15.)

Rules 24.213.416 through 24.213.420 reserved

24.213.421 BOARD SEAL (REPEALED) (History: 37-28-103, 37-28-104, MCA; IMP, 37-28-103, MCA; NEW, 1992 MAR p. 913, Eff. 5/1/92; TRANS, from Commerce, 2003 MAR p. 1286; REP, 2015 MAR p. 1201, Eff. 8/14/15.)

Subchapter 5

Sedation

24.213.501 INSTITUTIONAL GUIDELINES CONCERNING EDUCATION AND CERTIFICATION -- WHEN REQUIRED (REPEALED) (History: 37-1-131, 37-28-104, MCA; IMP, 37-28-101, 37-28-102, MCA; NEW, 2005 MAR p. 453, Eff. 4/1/05; REP, 2015 MAR p. 22, Eff. 1/16/15.)

24.213.502 TRAINING--CONSCIOUS SEDATION (1) Respiratory care practitioners shall meet the guidelines and protocols regarding education and training of those health care facilities that use or employ those respiratory care practitioners to administer intravenous (IV) conscious sedation. (History: 37-1-131, 37-28-104, MCA; IMP, 37-1-131, 37-28-101, 37-28-102, MCA; NEW, 2015 MAR p. 22, Eff. 1/16/15.)

Rule 24.213.503 reserved

24.213.504 AUTHORIZATION TO PERFORM FORMAL PULMONARY FUNCTION TESTING AND INFORMAL, BASIC SCREENING SPIROMETRY (1) A licensee is authorized to perform formal pulmonary function testing and spirometry if the individual has passed any one of the following certification or registry examinations:

- (a) entry level respiratory therapist (CRT);
- (b) advanced level respiratory therapist (RRT);
- (c) entry level pulmonary function technologist (CPFT); or
- (d) advanced pulmonary function technologist (RPFT). (History: 37-1-131, 37-28-104, MCA; IMP, 37-1-131, 37-28-102, MCA; NEW, 2005 MAR p. 453, Eff. 4/1/05; AMD, 2015 MAR p. 22, Eff. 1/16/15.)

Subchapters 6 through 20 reserved

Subchapter 21

Continuing Education

24.213.2101 CONTINUING EDUCATION REQUIREMENTS (1) Each respiratory care practitioner must complete 24 continuing education (CE) units in the preceding 24 months, by the renewal deadline in even-numbered years. One CE unit is equivalent to 50 minutes in length.

(2) Licensees shall affirm an understanding of their recurring duty to comply with CE requirements as a part of license renewal.

(3) The CE requirements do not apply until a licensee's first full year of licensure.

(4) The board/staff will not preapprove CE programs or sponsors. Licensees are responsible for selecting quality programs that focus on protecting the health, safety, and welfare of the public and contribute to licensees' professional knowledge and competence. Acceptable CE activities:

(a) contribute to the licensee's knowledge and professional competence;

(b) contain significant intellectual or practical content; and

(c) are germane to the profession of a respiratory care practitioner.

(5) Identical courses or programs may be submitted for CE credit only once every two years.

(6) The board may randomly audit up to 50 percent of renewed licensees.

(7) All CE must be documented to show proof of completion. Licensees must maintain CE records for one year following the renewal cycle reporting period and make the records available upon request. Documentation must include the following:

(a) licensee name;

(b) course title and description of content;

(c) presenter or sponsor;

(d) course date(s); and

(e) number of CE hours earned.

(8) Licensees found to be in noncompliance with CE requirements may be subject to administrative suspension. (History: 37-1-131, 37-1-319, MCA; IMP, 37-1-131, 37-1-141, 37-1-306, 37-1-319, 37-1-321, MCA; NEW, 1992 MAR p. 913, Eff. 5/1/92; AMD, 1993 MAR p. 2125, Eff. 9/17/93; AMD, 1994 MAR p. 3093, Eff. 12/9/94; AMD, 1998 MAR p. 2276, Eff. 8/28/98; AMD, 2000 MAR p. 1039, Eff. 4/28/00; TRANS, from Commerce, 2003 MAR p. 1286; AMD, 2007 MAR p. 1447, Eff. 9/21/07; AMD, 2015 MAR p. 22, Eff. 1/16/15; AMD, 2019 MAR p. 749, Eff. 6/8/19; AMD, 2019 MAR p. 2241, Eff. 12/7/19.)

Rules 24.213.2102 and 24.213.2103 reserved

24.213.2104 ACCEPTABLE CONTINUING EDUCATION (1) Acceptable CE programs include those:

(a) sponsored by institutions approved by the Joint Review Committee for Respiratory Therapy Education, Respiratory Care Accreditation Board or other successor accreditation organizations and courses approved by the American Association for Respiratory Care and its affiliates, the American Thoracic Societies, the American College of Cardiology, the American College of Chest Physicians, the American Nurses Association, the National Society for Cardiopulmonary Technologists, the American Lung Association, the American Lung Association of Montana, the Montana Heart Association, the Montana and American Medical Association, the Montana Hospital Association and Respiratory Care Journal (American Association of Respiratory Care sponsored); or

(b) approved by accrediting organizations that establish standards and criteria for CE programs.

(2) Approved CE activities include:

(a) seminars;

(b) workshops;

(c) conferences;

(d) college course work:

(i) one semester credit equals 15 CE units and one quarter credit equals ten CE units;

(e) teaching:

(i) eight credits maximum;

(ii) two credits for each hour of presentation;

(f) papers, publications, journals, exhibits, videos, and independent study:

(i) eight credits maximum;

(g) in-service programs; and

(h) online courses, webinars, and correspondence courses. (History: 37-1-131, 37-1-319, MCA; IMP, 37-1-131, 37-1-306, 37-1-319, MCA; NEW, 1992 MAR p. 913, Eff. 5/1/92; AMD, 1994 MAR p. 3093, Eff. 12/9/94; AMD, 1997 MAR p. 542, Eff. 3/25/97; TRANS, from Commerce, 2003 MAR p. 1286; AMD, 2015 MAR p. 22, Eff. 1/16/15; AMD, 2019 MAR p. 2241, Eff. 12/7/19.)

Rules 24.213.2105 and 24.213.2106 reserved

24.213.2107 TRADITIONAL EDUCATION BY NONSPONSORED ORGANIZATIONS -- CATEGORY II (REPEALED) (History: 37-1-131, 37-1-319, MCA; IMP, 37-1-131, 37-1-306, 37-1-319, MCA; NEW, 1992 MAR p. 913, Eff. 5/1/92; AMD, 1994 MAR p. 3093, Eff. 12/9/94; TRANS, from Commerce, 2003 MAR p. 1286; AMD, 2007 MAR p. 1447, Eff. 9/21/07; AMD, 2015 MAR p. 22, Eff. 1/16/15; REP, 2019 MAR p. 2241, Eff. 12/7/19.)

Rules 24.213.2108 through 24.213.2110 reserved

24.213.2111 TEACHING -- CATEGORY III (REPEALED) (History: 37-1-131, 37-1-319, 37-28-104, MCA; IMP, 37-1-131, 37-1-306, 37-1-319, MCA; NEW, 1992 MAR p. 913, Eff. 5/1/92; AMD, 1994 MAR p. 3093, Eff. 12/9/94; TRANS, from Commerce, 2003 MAR p. 1286; AMD, 2015 MAR p. 22, Eff. 1/16/15; REP, 2019 MAR p. 2241, Eff. 12/7/19.)

Rules 24.213.2112 and 24.213.2113 reserved

24.213.2114 PAPERS, PUBLICATIONS, JOURNALS, EXHIBITS, VIDEOS, INDEPENDENT STUDY, AND COLLEGE COURSE WORK -- CATEGORY IV (REPEALED) (History: 37-1-131, 37-1-319, 37-28-104, MCA; IMP, 37-1-131, 37-1-306, 37-1-319, MCA; NEW, 1992 MAR p. 913, Eff. 5/1/92; AMD, 1994 MAR p. 3093, Eff. 12/9/94; TRANS, from Commerce, 2003 MAR p. 1286; AMD, 2015 MAR p. 22, Eff. 1/16/15; REP, 2019 MAR p. 2241, Eff. 12/7/19.)

Rules 24.213.2115 through 24.213.2120 reserved

24.213.2121 WAIVER OF CONTINUING EDUCATION REQUIREMENT

(1) A licensee may request an exemption from CE requirements due to disabling illness or undue hardship. Requests will be considered by the board. (History: 37-1-131, 37-1-319, MCA; IMP, 37-1-131, 37-1-306, 37-1-319, MCA; NEW, 1992 MAR p. 913, Eff. 5/1/92; AMD, 1994 MAR p. 3093, Eff. 12/9/94; TRANS, from Commerce, 2003 MAR p. 1286; AMD, 2006 MAR p. 1583, Eff. 7/1/06; AMD, 2007 MAR p. 1447, Eff. 9/21/07; AMD, 2019 MAR p. 2241, Eff. 12/7/19.)

Subchapter 22 reserved

Subchapter 23

License Discipline

24.213.2301 UNPROFESSIONAL CONDUCT The board defines unprofessional conduct as follows:

- (1) Intentional or negligent physical, verbal, or mental abuse of a client in a clinical setting;
- (2) Failing to safeguard the client's dignity or right to privacy;
- (3) Diverting drugs, supplies, or property of patients or health care providers;
- (4) Falsifying, altering, or making incorrect essential entries, or failing to make essential entries of client records;
- (5) Using a firm name, letterhead, publication, term, title, designation, or document which states or implies an ability, relationship, or qualification that does not exist;
- (6) Practicing the profession under a false name or name other than the name under which the license is held;
- (7) Impersonating any licensee or representing oneself as a licensee for which one has no current license;
- (8) Charging a client or a third-party payor for a service not performed;
- (9) Submitting an account or charge for services that are false or misleading. This does not apply to charging for an unkept appointment;
- (10) Filing a complaint with, or providing information to the board which the licensee knows or ought to know is false or misleading. This provision does not apply to any filing of complaint or providing information to the board when done in good faith;
- (11) Violating, or attempting to violate, directly or indirectly, or assisting or abetting the violation of, or conspiring to violate any provision of Title 37, chapter 28, MCA, or rule promulgated thereunder, or any order of the board;
- (12) Violating any state, federal, provincial, tribal statute, or administrative rule governing or affecting the professional conduct of any licensee;
- (13) Being convicted of a misdemeanor or any felony involving the use, consumption, or self-administration of any dangerous drug, controlled substance, or alcoholic beverage, or any combination of such substances;
- (14) Using any dangerous drug or controlled substance illegally while providing professional services;
- (15) Acting in such a manner as to present a danger to public health or safety, or to any client including, but not limited to, incompetence, negligence, or malpractice;
- (16) Maintaining an unsanitary or unsafe office or practicing under unsanitary or unsafe conditions;

(17) Performing services outside of the licensee's area of training, expertise, competence, or scope of practice or licensure;

(18) Failing to obtain an appropriate consultation or make an appropriate referral when the problem of the client is beyond the licensee's training, experience, or competence;

(19) Maintaining a relationship with a client that is likely to impair the licensee's professional judgment or increase the risk of client exploitation, including providing services to employees, supervisees, close colleagues, or relatives;

(20) Exercising influence on or control over a client, including the promotion or the sale of services, goods, property, or drugs for the financial gain of the licensee or a third-party;

(21) Promoting for personal gain any drug, device, treatment, procedure, product, or service which is unnecessary, ineffective, or unsafe;

(22) Failing to render adequate supervision, management, training, or control of auxiliary staff or other persons, including the licensee practicing under the licensee's supervision or control according to generally accepted standards of practice;

(23) Discontinuing professional services, unless services have been completed, the client requests the discontinuation, alternative or replacement services are arranged, or the client is given a reasonable opportunity to arrange alternative or replacement services;

(24) Delegating a professional responsibility to a person when the licensee knows or has reason to know that the person is not qualified by training, experience, license, or certification to perform the delegated task. A professional responsibility that may not be delegated includes, but is not limited to, pulse oximetry;

(25) Failing to cooperate with a board inspection or investigation in any material respect;

(26) Failing to report an incident of unsafe practice or unethical conduct of another licensee to the licensing authority;

(27) Failing to obtain informed consent from patient or patient's representative prior to providing any therapeutic, preventative, palliative, diagnostic, cosmetic, or other health-related care;

(28) Employing a nontraditional or experimental treatment or diagnostic process without informed consent from patient or patient's representative prior to such diagnostic procedure or treatment, or research, or which is inconsistent with the health or safety of the patient or public;

(29) Guaranteeing that a cure will result from the performance of medical services;

(30) Ordering, performing, or administering, without clinical justification, tests, studies, x-rays, treatments, or services;

(31) Possessing, using, prescribing for use, or distributing controlled substances or legend drugs in any way other than for legitimate or therapeutic purposes, diverting controlled substances or legend drugs, violating any drug law, or prescribing controlled substances for oneself;

(32) Prescribing, dispensing, or furnishing any prescription drug without a prior examination and a medical indication;

(33) Failing to provide to a patient, patient's representative, or an authorized health care practitioner, upon a written request, the medical record or a copy of the medical record relating to the patient which is in the possession or under the control of the professional. Prior payment for professional services to which the records relate, other than photocopy charges, may not be required as a condition of making the records available;

(34) Engaging in sexual contact, sexual intrusion, or sexual penetration, as defined in Title 45, chapter 2, MCA, with a client during a period of time in which a professional relationship exists; or

(35) Failure to supply continuing education documentation as requested by the audit procedure set forth in ARM 24.213.2101, or supplying misleading, incomplete, or false information relative to continuing education taken by the licensee. (History: 37-1-131, 37-1-319, 37-28-104, MCA; IMP, 37-1-131, 37-1-316, 37-1-319, MCA; NEW, 1992 MAR p. 913, Eff. 5/1/92; AMD, 1997 MAR p. 542, Eff. 3/25/97; AMD, 1998 MAR p. 2276, Eff. 8/28/98; TRANS, from Commerce, 2003 MAR p. 1286; AMD, 2015 MAR p. 22, Eff. 1/16/15.)